

### **REMARKS**

Claims 28-30, 32 and 33 are pending.

As a preliminary matter, Applicants have amended the specification to include a Sequence Listing and proper reference to the sequences therein and to correct minor typographical errors. Enclosed herewith is a mark-up version showing all the changes to the specification of record under 37 C.F.R. § 1.125(b).

Entry of this amendment is respectfully requested. The amendments are made in adherence with 37 C.F.R. § 1.821-1.825. Applicant has amended the corresponding sequence listing in adherence with 37 C.F.R. §§ 1.822 and 1.823. While it was advised by the examiner to use the Computer Readable Form from the parent application, we found that duplicate sequences were given different SEQUENCE ID numbers in the parent application. Therefore, a new Computer Readable Form is being submitted.

The amendment is accompanied by a diskette containing SEQUENCE ID NUMBERS 1-72, in computer readable form. The computer readable sequence listing was prepared through use of the software program "PatentIn" provided by the U.S. Patent and Trademark Office. The information contained in the computer readable diskette is identical to that of the paper copy. Applicants submit that the accompanying computer readable sequence listing, and the paper copy thereof, serve to place this application in a condition of adherence to the rules 37 C.F.R. § 1.821-1.825. This submission includes no new matter.

### **Information Disclosure Statement**

Applicants thank the Examiner for initialing references C2, C3, C4, and C5, which had been considered at the time the previous Office Action was mailed, but due to an oversight the references were not initialed.

### **Claim Objections**

Applicants acknowledge the Examiner's withdrawal of the objection of claims 4-20.

**Claim Rejections under 35 U.S.C. § 112, first and second paragraphs**

Applicants acknowledge the Examiner's withdrawal of the rejection of claims 2-21 under 35 U.S.C. § 112, second paragraph and the withdrawal of the rejection of claims 17-21 under 35 U.S.C. § 112, first paragraph.

**Claim Rejections under 35 U.S.C. § 102**

Applicants acknowledge the Examiner's withdrawal of the rejection of claims 21-26 under 35 U.S.C. § 102.

**Claim Rejections under 35 U.S.C. § 103**

Applicants acknowledge the Examiner's withdrawal of the rejection of claim 29 under 35 U.S.C. § 103.

**Double Patenting**

Applicants acknowledge the Examiner's withdrawal of the objection of claim 29 under 37 CFR 1.75.

The following double patenting rejections have been maintained.

1) claims 2-20, 30, and 32 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as unpatentable over claims 29-37, 39-48, 29, and 32 of copending Application No. 09/837,866; and

2) claims 2-16, 28, 29, and 31 are rejected under judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 2-15 of U.S. Patent No. 6,188,965.

The Examiner has maintained the double patenting rejections because the Terminal Disclaimer filed on January 20, 2004 was defective because it did not specifically point out the patent/application number from which the Applicants were disclaiming. Applicants submit herewith a Terminal Disclaimer that specifically points out the patent/application

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numbers from which the Applicants are disclaiming. Accordingly, Applicants respectfully request withdrawal of the double patenting rejections.

Please direct any calls in connection with this application to the undersigned at (415) 781-1989.

Respectfully submitted,

DORSEY & WHITNEY LLP

Dated: 3/29/04

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**Attachments and Accompanying Documents**

Substitute Specification

Marked-up Version of Substitute Specification

Paper Copy of Sequence Listing

CRF Copy of Sequence Listing (diskette)

Terminal Disclaimer